THE HON'BLE SRI JUSTICE D.S.R.VARMA
AND
THE HON'BLE SRI JUSTICE K.C.BHANU

WRIT PETITION No.25476 OF 2007

DATE: 30.11.2007

Between:

Sileman Shaik, S/o Mastan, aged about 40 years.

...

Petitioner

AND

The Chief Commissioner of Customs and Central Excise, Hyderabad Zone, Basheerbagh, Hyderabad, and one another

....Respondents

THE HON'BLE SRI JUSTICE D.S.R.VARMA
AND
THE HON'BLE SRI JUSTICE K.C.BHANU

WRIT PETITION No.25476 OF 2007

ORAL ORDER: **(per the HON'BLE SRI JUSTICE D.S.R.VARMA)**

Heard the learned counsel appearing for the petitioner as well as the learned Assistant Solicitor General, Government of India, High Court of Andhra Pradesh, appearing for the respondents.

2. This writ petition is directed against the order, dated 30.10.2006, passed by the Central Administrative Tribunal, Hyderabad Bench, Hyderabad (for brevity "the Tribunal"), dismissing the application O.A.No.1480 of 2003, filed by the petitioner herein questioning the inaction on the part of the respondents herein in not considering his claim for appointment as Inspector of Customs & Central Excise in the quota meant for sportsmen of outstanding merit had been questioned.

3. Petitioner is the applicant and the respondents are the respondents, in the O.A., before the Tribunal.

4. The grievance of the petitioner is that he was appointed as Sepoy, with effect from 01.10.1992, in the department of Customs and Central Excise, Hyderabad. As per the circular instructions, there was a quota prescribed for sportsmen, who got laurels to the sport and also to the department. In other words, the quota prescribed for outstanding sportsmen was 5%. This fact is not in dispute.

5. It appears, for the appointment to the post of Inspector of Customs & Central Excise, under direct recruitment, the age limit

was 18 to 27 years. However, in the recruitment rules, relaxation of five years was given to the service candidates, in which event they would be eligible for appointment as Inspectors till they complete 32 years of age and further relaxation of 5 years was given to the outstanding sportsmen, in which event they would be eligible for appointment as Inspectors till they complete 37 years of age. Further, the relaxation was also in force, which fact is also not in dispute. It means, the petitioner, being in service candidate and an outstanding sportsman in Football game, was entitled to be appointed as Inspector upto the age of 37 years.

6. It also appears, one Mr. Nagendra was appointed in the said quota of 5%, earmarked for sportsmen, in the year 1996, but the case of the petitioner was not considered.

7. The Tribunal pointed out that the age of the petitioner was more than 30 years by the date of filing of O.A. In other words, he is not eligible even by the date of filing of O.A., itself. Further, this Court verified the facts in the O.A., filed before the Tribunal. In the O.A., there was no mention of the exact age of the petitioner. However, from the material before this Court, particularly the representation made by the petitioner, to the competent authority, it appears he was born in the month of June 1966. Therefore, obviously he was age barred by the date of filing of the O.A.

8. If the petitioner was eligible to be promoted as Inspector, he should have made an application in the beginning itself i.e., when he was declared to be eligible under the sportsmen quota. That was precisely about ten years ago he was eligible but he did not move the department for his promotion.

9. The learned counsel appearing for the petitioner contends that since there was a ban for appointments, to the category of Inspectors, for seven long years, promotions could not be taken up, because of which the petitioner was deprived of getting the opportunity of selection as Inspector. On this issue also, we are not able to agree with the learned counsel appearing for the petitioner because, as already pointed out, the petitioner became eligible about ten years ago and nothing prevented him from

making a representation or approaching the Court of law, seeking appointment as Inspector, by virtue of his eligibility as sportsman. He did not do anything in the remaining three years and, of course, it is his contention that he was making representations.

10. But, the law is settled, on this aspect, that mere making of representations is not sufficient to save the limitation. The aggrieved person is supposed to approach the Court of law within reasonable period. Even that was also not done by the petitioner. Further, ban of appointments to the post of Inspectors is an administrative action. If somebody was not appointed because of the said ban, the same will not entitle the person, who lost the opportunity of appointment, to gain more time equally to that of the ban period. Therefore, that cannot be a ground for seeking appointment after the ban was lifted, more particularly when he was age barred by the time when he approached the Court of law.

11. Of course, the Tribunal found that 'football' was not an identified game but the learned counsel appearing for the petitioner demonstrated before this Court that 'football' is also an identified game for reservation of 5% quota. Even otherwise, since the petitioner has already age barred, by the time he approached the Court of law, and since he did not approach the Court of law in an appropriate time, his inaction, in this regard, amounts to laches, which cannot be cured.

12. For the aforementioned, we do not find any reason to interfere with the impugned order, passed by the Tribunal, the writ petition fails and is liable to be dismissed.

13. In the result, the writ petition is dismissed, at the stage of admission. However, there shall be no order as to costs.

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JUSTICE D.S.R.VARMA

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JUSTICE

K.C.BHANU

30TH NOVEMBER 2007
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